



Tools for ITAR Licenses/Agreements

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ECCO is Valuable!

- Forum for communication and education
- At the 2013 ECCO Training Seminar, Alan Rittel mentioned a checklist for ITAR manufacturer uses
- Alan shared the checklist
- Realized that we were needed to do better with 22 CFR 123.22(b)(3)(i) and (ii) – Reporting of Export Information on Technical Data and Defense Service
- We also weren't doing a great job with communicating to our Requesters

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ITAR License Matrix

- Requirements are not all in one place (ITAR/DTRADE)
- The License Matrix contains:
 - Information on what each license is used for,
 - How to apply,
 - Reporting requirements,
 - License returns, and
 - Recordkeeping requirements
- Covers DSP-5, DSP-61, DSP-73, DSP-83, DSP-85, MLAs, and TAAs

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ITAR License Matrix (page 1)

DSP-5

Used for:

- Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data, 22CFR120.28(1)
- Exports of Unclassified Technical Data, including proposed discussions during a plant visit, 22CFR125.2
- Electronic submission of TAAs and MLAs, Guidelines for Preparing Electronic Agreements dated 10/9/2013.
- Limited Defense Services Which May be Considered Under a DSP-5 License Pursuant to 22CFR124.1(a), such as:
 - Short-term training
 - Limited duration/low technology integration work
 - Limited duration/low technology repair
 - Activities supporting a U.S. government contract (including subcontractor flow down) when the US party does not have any contractual relationship with the foreign party
 - Space-related insurance activities, unless SME technical data will be transferred

How to Apply

Electronically through DTrade
<http://www.pmddtc.state.gov/DTRADE/index.html>

Use the latest DSP-5 Guidelines on the DTRADE site (above).

Use the Sample Checklist for Completing a DSP-5 application at:
http://www.pmddtc.state.gov/licensing/documents/Industry_Checklist_DSP-5.pdf

Certification Letter is required (22CFR126.13) which is part of the application. A separate letter is required only if the Empowered Official is not submitting the application.

Reporting Requirements

Electronic reporting is not available, so until the use of DS-4071 becomes mandatory for the reporting of exports of technical data and services that is licensed on a DSP-5, the applicant must decrement the initial export on the original of the Form DSP-5 and return the license to DDTC.* See: <http://www.pmddtc.state.gov/licensing/aes.html>

Further exports using an exemption should be kept in a log. See: Recordkeeping of Technical Data and Defense Services.docx in the license support documents file.
Exemptions:
22CFR125.4(b)(2) Exports in furtherance of a TAA or MLA.
22CFR125.4(b)(5) Related to defense article.
22CFR125.4(b)(4) Copies to same recipient.
22CFR126.5 Canadian Exemption

License Return

Return to DDTC when:

- Total authorized value has been shipped.
- There will be no further shipments.
- Export of all technical data is complete.
- License expires.
- Requested by DDTC.
- 22CFR123.22(b)(3)(i)&(c)
- When foreign national terminated employment or expiration of foreign national's stay in the U.S. (check license conditions/provisos)

A DSP-5 license issued electronically by DDTC and decremented electronically by the U.S. Customs and Border Protection through the Automated Export System (AES) is not required to be returned to DDTC.
22CFR123.22(c)(1)

A license issued by DDTC but not used by the applicant does not need to be returned to DDTC, even when expired. 22CFR123.22(d)(4)

A license revoke by DDTC is considered expired and must be returned to DDTC.
22CFR123.22(c)(5)

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Top 26 ITAR Exemptions used by LANL

- Conditions
- Includes:
 - Temporary import license exemptions
 - Exemptions for training and military services
 - Exports of technical data in furtherance of an Agreement (123.22 + 124.3)
 - Exports of unclassified technical data
 - Exports of classified technical data and defense articles
 - Exemptions of general applicability (123.16 + 125.4)
 - Exemptions for plant visits

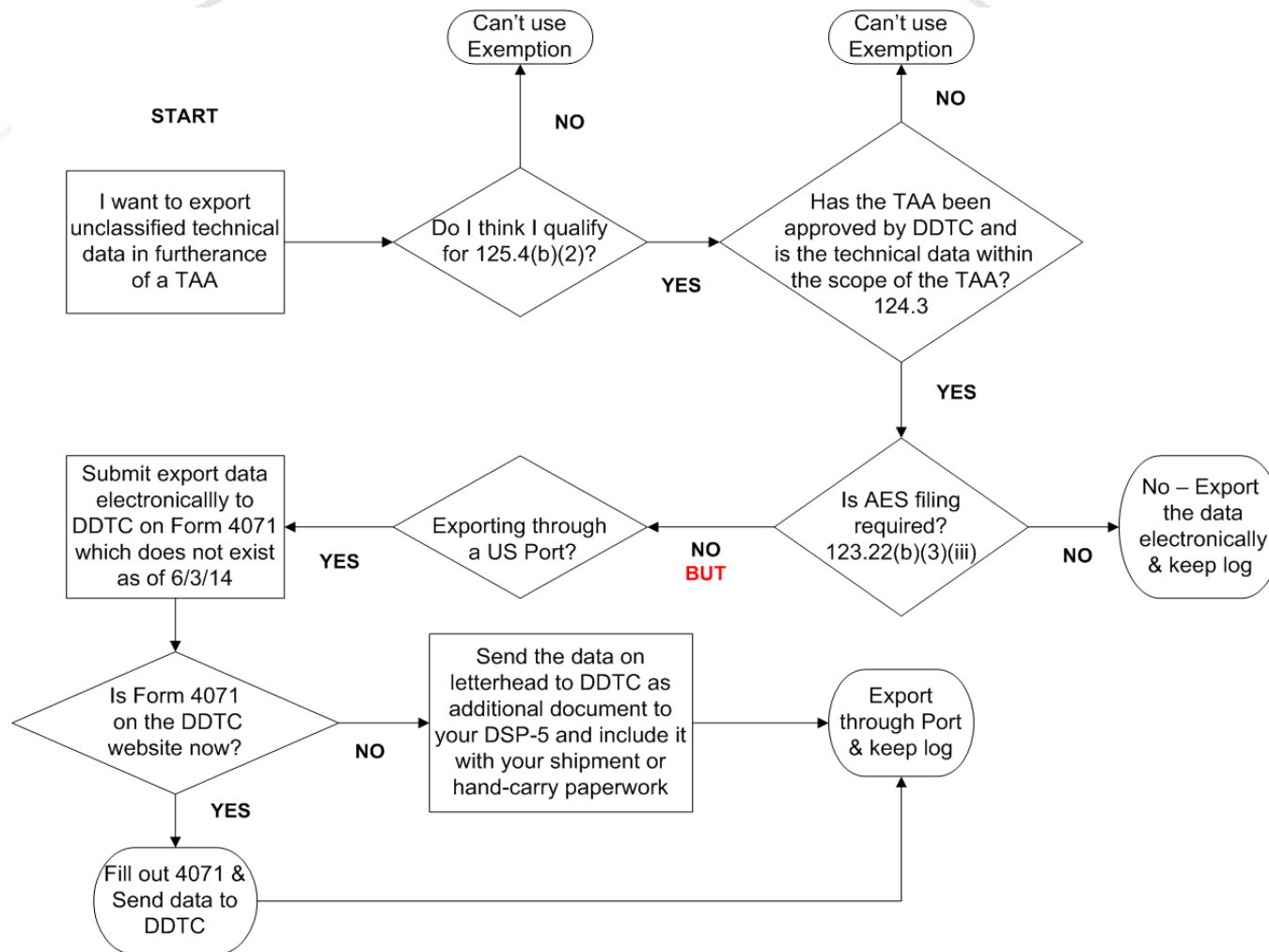
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Top 26 ITAR Exemptions used by LANL (page 1)

Top 26 ITAR Exemptions (by Section Number) Used by LANL (Revised 5/29/2014)	
123.4(a)(1): Import for Overhaul, Service, Repair 123.4(a)(2): Import for Enhancement or Upgrade	<p>Temporary import of a defense article is permitted without license, PROVIDED it is:</p> <ul style="list-style-type: none"> • Unclassified, and • For repair & return to sender within four years, and • U.S.-made (or foreign with U.S. Government approval), and: • Will be serviced but not improved; or • Will be improved or incorporated into another item which has already been authorized for permanent return; or • Will be imported only for exhibition or demonstration in USA; or • Was rejected for permanent import and is being returned to sender; or • Was approved for import under FMS LOA.
123.4(b): Import for Incorporation Into Other Articles	<p>Temporary import of an unclassified item is permitted without license, PROVIDED it will be exported under DSP-5 within four years.</p> <ul style="list-style-type: none"> • Not limited to U.S.-origin articles. • Not required to be exported within 4 years. • Okay to be shipped to different party or country than origin.
123.9(e): Re-export to NATO, Australia, Israel, Japan, New Zealand, or the Republic of Korea.	<p>Authorized without the prior written approval of the Directorate of Defense Trade Controls (DDTC), PROVIDED:</p> <ul style="list-style-type: none"> • U.S.-origin components were previously authorized for export (except those covered under 126.16 or 126.17, below). • U.S.-origin components are NOT: <ul style="list-style-type: none"> – Significant Military Equipment (SME) – Major defense equipment (≥\$25M) – Defense articles/services (≥\$100M) – Under the Missile Technology Control Regime (MTCR) • DDTC is notified <30 days after the reexport • Original license/approval from DDTC did not prohibit retransfer/reexport under this exemption.
<p>123.16(b)(1): Unclassified Hardware for Agreements (manufacturing license agreement (MLA), technical assistance agreement (TAA), distribution of auxiliary military equipment</p> <p>This exemption does not apply to:</p> <ul style="list-style-type: none"> • Proscribed destinations • Exports requiring Congressional notification • MTCR articles • SME • Generally ineligible persons 	<p>Approved PROVIDED:</p> <ul style="list-style-type: none"> • Defense hardware supports the activity and is specifically identified in the agreement/arrangement. • Provisos/limitations in the agreement/arrangement are followed. • Appropriate code is in the Electronic Export Information (EEI) filing/notification letter. • Total value of all shipments does not exceed value authorized in the agreement/arrangement. • If a distribution agreement, export is directly to the approved foreign distributor. • Exporter writes "22 CFR 123.16(b)(2) applicable" on the shipping documents.

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Exemption 125.4(b)(2)



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Checklists

- [Link to Pre and Post License/Agreement Checklists](#)

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